

***United States Court of Appeals
for the Second Circuit***



APPENDIX

*Original w/ affidavit of
marriage*

74-2636

**United States Court of Appeals
FOR THE SECOND CIRCUIT**

Docket No. 74-2636

JAMES C. KING ,

Plaintiff-Appellant,

—against—

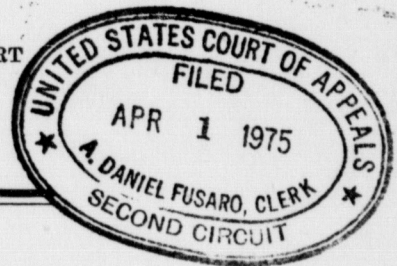
**UNITED STATES CIVIL SERVICE COMMISSION,
ROBERT E. HAMPTON, JAYNE B. SPAIN,
L. J. ANDOLSEK, MAURICE L. ETZELL and
KIMBELL JOHNSON,**

Defendants-Appellees.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

APPELLEES' APPENDIX

DAVID G. TRAGER,
*United States Attorney,
Eastern District of New York.*



PAGINATION AS IN ORIGINAL COPY

NOTIFICATION OF PERSONNEL ACTION

6 PART
50-117

(For agency use)

42013 02-20-64 1 0 05-20-64 0779 602 03 1

1. NAME (CAPS) LAST-FIRST-MIDDLE LINE, JAMES G., JR.		MR.-MISS-MRS. Mr.	2. (For agency use)	3. BIRTH DATE (Mo., Day, Year) 04-12-27	4. SOCIAL SECURITY NO. 413-23-1901
5. VETERAN PREFERENCE 1 1—NO 3—10 PT. DISAB. 5—10 PT. OTHER 2—5 PT. 4—10 PT. COMP.			6. TENURE GROUP 2	7. SERVICE COMP. DATE 09-20-64	8. PHYSICAL HANDICAP CODE 00
9. FEGLI 1 1—COVERED 2—INELIGIBLE 3—WAIVED			10. RETIREMENT 1 1—CS 3—FS 5—OTHER 2—FICA 4—NONE		11. (For CSC use)
12. NATURE OF ACTION 101 Career-Conditional Appt. CODE			13. EFFECTIVE DATE (Mo., Day, Year) 09-20-64		14. CIVIL SERVICE OR OTHER LEGAL AUTHORITY NDS Cert. 52-1913, dtd. 9-14-64
15. FROM: POSITION TITLE AND NUMBER			16. PAY PLAN AND OCCUPATION CODE		17. GRADE OR LEVEL
18. SALARY					
19. NAME AND LOCATION OF EMPLOYING OFFICE					

20. TO: POSITION TITLE AND NUMBER Chemist (Organic) 2500-046-25		21. PAY PLAN AND OCCUPATION CODE GS-1320	22. GRADE OR LEVEL 07 / 01	23. SALARY pa \$ 7,050
24. NAME AND LOCATION OF EMPLOYING OFFICE Patent Office Washington, D. C. Office of Research & Development				

25. DUTY STATION (City—county—State) Washington, D. C.			26. LOCATION CODE 00-0010-001	
27. APPROPRIATION		28. POSITION OCCUPIED 1—COMPETITIVE SERVICE 1 2—EXCEPTED SERVICE		29. APPORTIONED POSITION FROM: TO: STATE 1—PROVED-1 2—WAIVED-2 DC

30. REMARKS: **32** A. SUBJECT TO COMPLETION OF 1 YEAR PROBATIONARY (OR TRIAL) PERIOD COMMENCING **09-20-64**
31 B. SERVICE COUNTING TOWARD CAREER (OR PERMANENT) TENURE FROM: **09-20-64**

SEPARATIONS: SHOW REASONS BELOW, AS REQUIRED. CHECK IF APPLICABLE: ☐ C. DURING PROBATION ☐ D. FROM APPOINTMENT OF 6 MONTHS OR LESS

Subject to satisfactory report of investigation as to suitability for employment.

31. DATE OF APPOINTMENT AFFIDAVIT (Accessions only) 09-20-64		34. SIGNATURE (Or other authentication) AND TITLE U. E. Johnson Personnel Officer 2794	
32. OFFICE MAINTAINING PERSONNEL FOLDER (If different from employing office)		35. DATE 09-21-64	
33. CODE EMPLOYING DEPARTMENT OR AGENCY 0111 U.S. Department of Commerce			

CIA PY

A 2

August 24, 1965

Mr. James G. King, Jr.
Chemist
Office of Research and Development

Dear Mr. King:

This is notice that your employment as Chemist, GS-7, in the U. S. Patent Office is hereby terminated effective at the close of business on September 3, 1965.

The termination during your probationary period is based on performance deficiencies. You have been informed on several occasions that your interpretation of patent content requires excessive review and revision by other members of the staff. The Personnel Division received a memorandum from your supervisor on August 11, 1965, indicating that your progress in this field of work has been poor and that you have not progressed to a level of performance which is satisfactory for a trainee. Accordingly, you have failed to qualify for the position of Chemist, GS-7, during probationary period due to lack of aptitude for interpreting and understanding patent disclosures.

I have attached a copy of an SF-50 (Personnel Action) effecting the termination of your appointment.

Sincerely yours,

SGD. W. E. INGRAM

W. E. Ingram
Personnel Officer

Attachment

bcc: Personnel File ✓
Supervisor (Spencer)
Disc. File

bcc: *Self*

DATE: *See attached statement*

RECEIVED: _____

NOTIFICATION OF PERSONNEL ACTION

6 PART
50-117

(For agency use)

43843 09-20-64 1 0 09-20-64 0779 000 08 1

1. NAME (CAPS) LAST-FIRST-MIDDLE KING, JAMES G., JR.		MR.—MISS—MRS. Mr.	2. (For agency use)	3. BIRTH DATE (Mo., Day, Year) 04-12-27	4. SOCIAL SECURITY NO. 413-28-1981
5. VETERAN PREFERENCE 1 1—NO 3—10 PT. DISAB. 5—10 PT. OTHER 2—5 PT. 4—10 PT. COMP.		6. TENURE GROUP 2		7. SERVICE COMP. DATE 07-19-57	8. PHYSICAL HANDICAP CODE 00
9. FEGLI 1—COVERED 2—INELIGIBLE 3—WAIVED		10. RETIREMENT 1—CS 3—FS 5—OTHER 2—FICA 4—NONE		11. (For CSC use)	
12. NATURE OF ACTION 329 Termination during probation CODE		13. EFFECTIVE DATE (Mo., Day, Year) 09-03-65		14. CIVIL SERVICE OR OTHER LEGAL AUTHORITY	
15. FROM: POSITION TITLE AND NUMBER Chemist (Organic) 2500-046-25 1		16. PAY PLAN AND OCCUPATION CODE GS-1320		17. GRADE OR LEVEL 07 / 01	18. SALARY pa \$ 7,050
19. NAME AND LOCATION OF EMPLOYING OFFICE Patent Office Office of Research & Development Washington, D. C.					

20. TO: POSITION TITLE AND NUMBER	21. PAY PLAN AND OCCUPATION CODE	22. GRADE OR LEVEL	23. SALARY
24. NAME AND LOCATION OF EMPLOYING OFFICE			

25. DUTY STATION (City—county—State) Washington, D. C.		26. LOCATION CODE 08-0010-001	
27. APPROPRIATION	28. POSITION OCCUPIED 1—COMPETITIVE SERVICE 1 2—EXCEPTED SERVICE	29. APPORTIONED POSITION FROM: TO: STATE 1—PROVED-1. 2—WAIVED-2	

30. REMARKS: ☐ A. SUBJECT TO COMPLETION OF 1 YEAR PROBATIONARY (OR TRIAL) PERIOD COMMENCING ☐ C. DURING PROBATION ☐ D. FROM APPOINTMENT OF 6 MONTHS OR LESS
☐ B. SERVICE COUNTING TOWARD CAREER (OR PERMANENT) TENURE FROM:

SEPARATIONS: SHOW REASONS BELOW, AS REQUIRED. CHECK IF APPLICABLE: ☐ C. DURING PROBATION ☐ D. FROM APPOINTMENT OF 6 MONTHS OR LESS

Reason: Failure to qualify during probationary period due to lack of aptitude for interpreting and understanding potent disclosures. Disqualification based on Performance deficiencies, as stated in letter of August 24, 1965

31. DATE OF APPOINTMENT AFFIDAVIT (Accessions only)	34. SIGNATURE (Or other authentication) AND TITLE Personnel Officer
32. OFFICE MAINTAINING PERSONNEL FOLDER (If different from employing office)	
33. CODE EMPLOYING DEPARTMENT OR AGENCY CM 11 U. S. Department of Commerce	35. DATE 08-24-65 Personnel Officer 2794

98

WESTERN UNION
TELEGRAM

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TELEGRAM

WESTERN UNION
TELEGRAM

WESTERN UNION
TELEGRAM

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SEP 14 PH 3:17

MAIL AND COMM. UNIT

9/15

A

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For *Mr. James Montan*
Not for *Mr. Montan*

SUNO1955 SEP 14 65 WB134
(US) DL PD WASHINGTON DC 14 246P EDT
UNITED STATES CIVIL SVC COMMISSION, APPEALS AND EXAMINING
OFFICE CARE HON. JOHN W MACY, CHAIRMAN
1900 E ST NORTHWEST WASHDC

DEAR SIR IN REPLY TO CORRESPONDENCE, DATED 9/9/65 I RESPECTFULLY
SET FORTH MY BASIS FOR APPEAL, HEREIN A MARITAL STATUS-A BOND
ISSUE TO BE UTILIZED FOR THE EDUCATION OF MY CHILDREN HAS
BEEN PREJUDICED, BECAUSE OF UNJUSTIFIABLE PERSONNEL ACTION,
AND OR MY PERSONAL IGNORANCE OF CIVIL SERVICE STATUTES GOVERNING
MY APPEL RIGHTS, AS A PROBATIONARY EMPLOYEE B. PHYSICAL HANDICAP
UNDUE MENTAL AND/OR EMOTIONAL PRESSURES WERE BROUGHT TO BEAR
UPON MY PROFESSIONAL CAPABILITIES BECAUSE OF IMPERFECTIONS
EXISTING WITHIN THE RESEARCH AND DEVELOPMENT SYSTEMS STUDIED,
OVERWHICH I AS AN ANALYST HAD NO CONTROL, THESE IN ESSENCE
MAY HAVE NULLIFIED POSITIVE APPROACHES TO INTERPRETATION AND/OR

RECEIVED
APPEALS EXAMINING
OFFICE

SEP 15 1965

APTITUDE.

~~5044~~ APPEAL IS BASED UPON CLAUSES AS EXCERPTED FOR ME FROM
THE CIVIL SERVICE REGULATIONS MANUAL THANK YOU
JAMES GILBERT KING JR

9/9/65 A B
(13).

SAID

85

A

5

IAS:APP

RETURNED

NOV 26 1965

Mr. James G. King, Jr.
5321 Blaine Street, N.E.
Washington, D. C. 20019

THIS COPY ONLY RECEIVED
RECORDS ADMINISTRATION SECTION

Dear Mr. King:

We can take no action on your appeal filed by telegram dated September 14, 1965 protesting your termination during probation from the position of Chemist (Organic) GS-1320-07/01, \$7,050 per annum, Patent Office, Department of Commerce, Washington, D.C. effective September 3, 1965.

Section 315.806 of the Civil Service regulations provides that probationary employees who are separated because their performance of their duties is not satisfactory to the agency may appeal to the Civil Service Commission only on the grounds that the action was taken for political reasons not required by law or resulted from discrimination because of sex, marital status, or physical handicap.

In your telegram you set forth marital status and physical handicap as the bases of your appeal.

You assert the agency action has (1) prejudiced a bond issue which was to be utilized for the education of your children and (2) nullified a family group insurance plan.

Although we recognize that the aforementioned may result from the termination of ones employment they in no way support an allegation of discrimination because of marital status as the cause of the removal action.

You add that undue mental and/or emotional pressures were brought to bear upon your professional capabilities because of imperfections existing within the research and development systems studied.

To meet the test of discrimination because of physical handicap one must show: (1) the existence of a physical handicap; (2) that despite the handicap the employee is ready, willing and able to perform the duties of his position and (3) that the agency refused to allow him to perform because of the handicap.


Your explanation, supra, does not support a conclusion that your removal was grounded in discrimination because of physical handicap.

The appeal is denied as it is not within the purview of section 315.806 of the Civil Service Regulations.

This decision becomes a final decision of the Civil Service Commission unless either the appellant or the employing agency files an appeal with the Board of Appeals and Review, U. S. Civil Service Commission, Washington, D. C. 20415, within seven (7) days of receipt of this decision.

Section 772.307 of the Commission's regulations provides that such an appeal must be filed in writing setting forth the basis for the appeal.

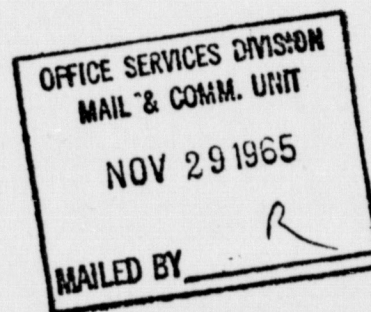
Sincerely yours,



James T. Masterson, Chief
Appeals Examining Office

XAE:APP:ME Sedmak:ctw

cc: Mr. W. E. Ingram
Personnel Officer
US Patent Office
Department of Commerce
Washington, D. C.



CLASS OF SERVICE

This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION

TELEGRAM

W. P. MARSHALL
CHAIRMAN OF THE BOARD

R. W. MCFALL
PRESIDENT

SYMBOLS

DL = Day Letter

NL = Night Letter

LT = International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination.

LLE024 SPOC020 WA022

(SU) NL PD WASHINGTON DC 2

HONORABLE JAMES MATERSON, PERSONAL DELIVERY ONLY

CHIEF OF THE APPEALS EXAMINING SECTION UNITED STATES CIVIL SERVICE COMMISSION 1900 E ST NORTHWEST WASHDC

DEAR SIR

HEREIN, IS A REPLY TO YOUR RECENT CORRESPONDENCE CITING ME AS AN APPELLANT UNDER THE DESCRIBED CODES. MY ATTORNEYS IN CONJUNCTION WITH THE BOARD OF TRUSTEES FISK UNIVERSITY SHALL ANSWER YOU IN WRITING. THIS CONSTITUTES MY PERSONAL NOTICE TO

YOU. THANK YOU

JAMES G KING JR.

RECEIVED
APPEALS EXAMINING
OFFICE

DEC 3 1965

RECEIVED
APPEALS EXAMINING
OFFICE
DEC 3 1965

FILE
12-13

82

March 18, 1966

A 8

Mr. James G. King, Jr.
5321 Blaine Street, N.E.
Washington, D. C. 20019

Dear Mr. King:

This refers to your appeal from the decision of the Commission's Appeals Examining Office that your separation during probationary period from the position of Chemist (Organic), Office of Research and Development, Patent Office, Washington, D.C., was not the result of discrimination because of physical handicap.

The Commission regards the probationary period of an employee as a final, and significant, step in the examining process since that period is actually a test of on-the-job performance. Therefore, the Civil Service Regulations provide that separation action should be initiated whenever the probationer's work performance or conduct fails to demonstrate his fitness or his qualifications for continued Federal employment. The regulations further provide that when separation is based entirely on deficiencies in performance or conduct after appointment, the employee is notified in writing as to why he is being terminated and the effective date of the action. He has no right of appeal to the Civil Service Commission unless it is alleged, by affidavit, that the action was taken for political reasons not required by law, or resulted from discrimination because of sex, marital status or physical handicap.

In appealing to the Commission, you alleged discrimination because of physical handicap in that "undue mental and/or emotional pressures were brought to bear upon my professional capabilities. . . ." However, although two extensions of time were granted you for the submission of representations in support of your appeal, no further information has been received. Therefore, inasmuch as there is no evidence to support a finding of discrimination because of physical

APPEAL-TEMP.

handicap, and inasmuch as you were separated during probationary period for unsatisfactory work performance; there is no action which may be taken on your case and the decision of the Appeals Examining Office is affirmed.

For the Commissioners:

Sincerely yours,

H. T. Groark
3/16/66
E. T. Groark
Chairman, Board of Appeals
and Review

Keith 3/16/66

ELKeith



Mr. James G. King, Jr.
5321 Blaine Street, N. E.
Washington, D. C. 20019

Dear Mr. King:

Reference is made to your applications for Patent Examiner, filed with the Board of U. S. Civil Service Examiners, U. S. Patent Office, Research Chemist, filed with the Board of U. S. Civil Service Examiners, National Bureau of Standards, and Chemist, filed with the Commission's Bureau of Recruiting and Examining.

On your applications for Chemist and Research Chemist you admitted that you had been discharged from employment, referring to the Commission's Appeals Examining Office. You stated that you were terminated from the position of Chemist, Bureau of the Mint, during the test period.

Your official personnel record shows the following terminations from Government employment:

9/3/65 -- Chemist (Organic), U. S. Patent Office, Washington, D. C., for failure to qualify during probationary period due to lack of aptitude for interpreting and understanding patent disclosures. This action was upheld by the Commission on appeal.

1/8/66 -- Chemist (Organic), Bureau of the Mint, Washington, D. C., for failure to meet the minimum quantity standards expected of a Chemist in the laboratory.

In general, the Commission will not accept applications from persons who have been recently separated for inability to perform satisfactorily duties in same or similar positions.

After careful consideration of all the facts and circumstances in your case, the Commission has determined that you are presently

APPEAL-TEMP.

disqualified for these positions under the provisions of Civil Service Regulation 731.201 because of your recent terminations from similar positions for unsatisfactory service.

Therefore, your applications are rated ineligible.

Sincerely yours,

H. C. Bolton, Chief
Division of Adjudication

INA:LADoughty:et 5/20/66

UNITED STATES CIVIL SERVICE COMMISSION
BUREAU OF PERSONNEL INVESTIGATIONS
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

INA:INV

YOUR REFERENCE

A 12

JUL 12 1966

Mr. James G. King, Jr.
5321 Blaine Street, N. E.
Washington, D. C. 20019

Dear Mr. King:

This refers to your appeal from the action taken by the Division of Adjudication under date of May 23, 1966, rating ineligible your applications for Patent Examiner, Chemist, and Research Chemist.

After careful consideration of your appeal and the entire record in your case, the original decision is reversed. Accordingly, the ineligible ratings of May 23, 1966, are rescinded, and your applications have been accepted insofar as your separation from prior employment is concerned.

Your application for Patent Examiner has been referred to the Board of U. S. Civil Service Examiners, U. S. Patent Office; your application for Research Chemist has been referred to the Board of U. S. Civil Service Examiners, National Bureau of Standards; and your application for Chemist has been referred to the Commission's Bureau of Recruiting and Examining. Your name will be placed on appropriate lists of eligibles, and any further communications you may have regarding these applications should be directed to the appropriate Boards.

Enclosed is material which you furnished in connection with your appeal.

Sincerely yours,

Kimbell Johnson
Kimbell Johnson
Director

Enclosure

United States District Court

For The

A. 13

Eastern District of New York

James G. King, Jr.

119-73 Merrill Street

Jamaica Long Island, New York
or

5321 Blaine Street N.E.

Washington, District of Columbia 20025

- Plaintiff -

VS

The United States Civil Service Commission

Nineteenth and E Streets North West

Washington, District of Columbia 20025

- Defendants -

- Complaint -

(Monetary Damages: IMMEDIATE reinstatement)

(I.) This Court has Jurisdiction in that
applications for this Civil Service
were filed recently.

(II.) A duly adjudicated file per official
Hearing Before the Inspector's of The
Commission is Defacto.

Here in is included with the Court's
indulgence a formal Motion for a

Complete Examiner's Hearing in the
Presence of My Surrogate to Determine
Status Quo of all personnel files relating
to the Plaintiff's Employment Tenure.

Wherefore: With Sufficient Cause the
Plaintiff Shall Demand Judgement against
the Defendants: Retroactive Back pay (\$5,000.00)
With Current Career Status of Equity

By Plaintiff/surrogate James G. King, Jr.

James G. King, Jr.

-----X
 JAMES G. KING, JR.
 119-73 Merrill St.
 Jamaica, Long Island, New York
 - or -
 5321 Blaine Street, N. E.
 Washington, District of Columbia 20019

Index # 72 C 914
 File # 720904

Plaintiff

vs.

Mr. Maurice L. Etzell, Chief
 Program Evaluation Division
 U. S. Civil Service Commission
 Bureau of Inspections

Defendant
 -----X

- COMPLAINT -
 (Amendment)

(Monetary Damages: Equitable adjudication of Back Pay Schedule)

- I. This Court has Jurisdiction in that applications for this Civil Service were recently adjudicated per Judicial Review (amendment pending).
- II. A duly adjudicated file per official Hearing before the Inspector's of the Civil Service Commission is De facto.
- III. De Facto Denials of the plaintiff's rights (Constitutional) are a matter of current certiorari.

Re: Summary: citations: Review
 Cites include, namely:

- (A) The Fifth Amendment to the U. S. Constitution regarding Denial of Due Process in the handling of the plaintiff's Civil Service Records: Promotional opportunities.
- (B) The Civil Rights Act of 1965, wherein the above causes produced undue hardships on the plaintiff's family and Legal Counsels.
- (C) "Constitutional Jeopardy", under Title 18- United States Code - Section 1001 et al.

Herein is included, with the Court's indulgence, a formal motion to amend, as follows procedural, namely:

- (A) The Demand of Judgement against the Defendants to read for the Record \$10,000, per stipulations of the Tucker Amendment.
- (B) Suppression of the Demand for Reinstatement.
- (C) Continued Judicial Supervision of the Plaintiff's Demand for Career Status of Equity under U. S. Constitutional Guarantee:

WHEREFORE,

With continuing cause the plaintiff shall ask
pro se judgement of \$10,000 in personal damages.

by Plaintiff / Surrogate

James G. King, Jr.
James G. King, Jr.

----- x
JAMES G. KING, JR.
119-73 Merrill St.
Jamaica, Long Island, New York
or
5321 Blaine Street N.E.
Washington, District of Columbia 20019

Index # 72 C-914
File # 720904

Plaintiff

vs.

The Honorable Kimball Johnson
Director of Personnel Investigations
United States Civil Service Commission
Washington, D. C. 20025

Defendant

----- x
- COMPLAINT -
(Amendment)

(Monetary Damages: Equitable adjudication of Back Pay Schedules)

- I. This Court has Jurisdiction in that applications for this Civil Service were recently adjudicated per Judicial Review (amendment pending).
- II. A duly adjudicated file per official Hearing before the Inspector's of the Civil Service Commission is Defacto.
- III. De facto Denials of the plaintiff's rights (Constitutional) are a matter of current certiorari.

Re: Summary: citations: Review
Cites include, namely:

- (A) The Fifth Amendment to the U. S. Constitution regarding Denial of Due Process in the handling of the plaintiff's Civil Service Records: Promotional opportunities.
- (B) The Civil Rights Act of 1965, wherein the above causals produced undue hardships on the plaintiff's family and Legal Counsels.
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- (B) Suppression of the Demand for reinstatement.
- (C) Continued Judicial Supervision of the Plaintiff's Demand for Career status of Equity under U. S. Constitutional Guarantee:

WHEREFORE,

With continuing cause the plaintiff shall ask
pro se judgement of \$10,000 in personal damages.

by Plaintiff / Surrogate James G. King, Jr.
James G. King, Jr.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JAMES G. KING, JR.,

Plaintiff

COMPLAINT

- against -

Civil Action File
No. 72 C 914

THE UNITED STATES CIVIL SERVICE
COMMISSION, ROBERT E. HAMPTON, AS
COMMISSIONER, Et. Al.,

Defendants.
-----X

1. Plaintiff is a citizen of the State of New York and Defendant is an agency of the Federal government, having its principal place of business in the District of Columbia.

2. Jurisdiction is conferred upon this court by Public Law 88-519, 78 Stat. 699.5. The matter in controversy does not exceed in monetary value the sum of \$10,000, exclusive of interest and costs.

3. Robert E. Hampton is sued herein as Commissioner and a member of the United States Civil Service Commission. As such, he is responsible for the internal direction and regulations of the U. S. Civil Service, including the terms and conditions and procedures for termination of employees of the United States Government.

4. Maurice L. Etzell, is sued herein as Chief, Department of Program Evaluation, Bureau of Inspections. As such, he is responsible for the inspection of qualifications of persons employed in the Federal Civil Service.

5. Kimbell Johnson is sued herein as Director of Bureau of Personnel Investigations. As such, he is responsible for the investigation of allegations of wrongful conduct by employees of the Division and Personnel, and for the further reason of his failure to direct the reemployment of the Plaintiff herein.

6. On or about May, 1966, the Defendant, by its division of adjudication wrongfully and illegally awarded an ineligible rating as an employee of the Federal Civil Service to the Plaintiff. Allegations that the Plaintiff lacked aptitude for interpreting and understanding scientific disclosures and further allegations that the plaintiff failed to meet the minimum quantity standards expected were wholly untrue and not sustained by any substantial evidence resulted in the wrongful termination of the Plaintiff's employment.

7. Plaintiff was employed by The Bureau of Mines as a chemist.

8. In correspondence to the Plaintiff herein, the Defendant, Kimbell Johnson, reversed the original wrongful decision finding the Plaintiff ineligible, which finding was the basis for the wrongful discharge of the Plaintiff.

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

1. Directing the re-employment of the Plaintiff as a chemist, U. S. Patent Office, Bureau of Mines.

2. For a sum of money as damages from the date of termination of employment to the date of reemployment, minus his interim earnings.

3. Attorney fees, costs and such other relief as the Court deems to be just and proper.

Dated: October , 1973
New York, New York

JOHN L. EDMONDS
Attorney for Plaintiff
501 Fifth Avenue
56th Floor
New York, N.Y. 10036
(212) 354-6363

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JAMES G. KING, JR.,

Plaintiff,

-against-

COMPLAINT

THE UNITED STATES CIVIL SERVICE
COMMISSION, ROBERT E. HAMPTON, as
Commissioner, et als.,

Civil Action
No. 72 C 914

Defendants.
-----X

1. Plaintiff is a citizen of the State of New York and Defendant is an agency of the Federal government, having its principal place of business in the District of Columbia.

2. Jurisdiction is conferred upon this court by Public Law 88-519, 78 Stat. 699.5. The matter in controversy does not exceed in monetary value the sum of \$10,000, exclusive of interest and costs.

3. Robert E. Hampton, Jayne B. Spain and L.J. Andolsek are sued herein as Commissioners and as members of the United States Civil Service Commission. As such, they are responsible for the internal direction and regulations of the U.S. Civil Service, including the terms and conditions and procedures for termination of employees of the United States Government.

4. Maurice L. Etzell, is sued herein as Chief, Department of Program Evaluation, Bureau of Inspections. As such, he is responsible for the inspection of qualifications of persons employed in the Federal Civil Service.

5. Kimbell Johnson is sued herein as Director of Bureau of Personnel Investigations. As such, he is respon-

sible for the investigation of allegations of wrongful conduct by employees of the Division and Personnel, and for the further reason of his failure to direct the reemployment of the Plaintiff herein.

6. On or about May, 1966, the Defendant, by its division of adjudication wrongfully and illegally awarded an ineligible rating as an employee of the Federal Civil Service to the Plaintiff. Allegations that the Plaintiff lacked aptitude for interpreting and understanding scientific disclosures and further allegations that the Plaintiff failed to meet the minimum quantity standards expected were wholly untrue and not sustained by any substantial evidence resulted in the wrongful termination of the Plaintiff's employment.

7. Plaintiff was employed by The Bureau of Mines as a chemist.

8. In correspondence to the Plaintiff herein, the Defendant, Kimbell Johnson, reversed the original wrongful decision finding the Plaintiff ineligible, which finding was the basis for the wrongful discharge of the Plaintiff.

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

1. Directing the reemployment of the Plaintiff as a chemist, U.S. Patent Office, Bureau of Mines.

2. For a sum of money as damages from the date of termination of employment to the date of reemployment, minus his interim earnings.

3. Attorney fees, costs and such other relief as

the Court deems to be just and proper.

Dated: March 25, 1974
New York, New York

JOHN L. EDMONDS
Attorney for Plaintiff
500 Fifth Avenue
56th Floor
New York, New York 10036
(212) 354-6363

AFFIDAVIT OF MAILING

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK } ss

LYDIA FERNANDEZ being duly sworn,

deposes and says that he is employed in the office of the United States Attorney for the Eastern District of New York.

That on the 26th day of March 19 75 he served ^{two copies} ~~xxx~~ of the within
Appellee's Appendix

by placing the same in a properly postpaid franked envelope addressed to: _____

Mr. James G. King, Jr.
119-73 Merrill Street
Jamaica, N. Y.

and deponent further says that he sealed the said envelope and placed the same in the mail chute drop for mailing in the United States Court House, Washington Street, Borough of Brooklyn, County of Kings, City of New York.

Lydia Fernandez
LYDIA FERNANDEZ

Sworn to before me this

26th day of March 19 75

Olga S. Morgan
OLGA S. MORGAN
Notary Public, State of New York
No. 24-4501966
Qualified in Kings County
Commission Expires March 30, 1977